

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/308,408 06/28/99 FELLINGER

A FLA-0010

QM12/0608

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EXAMINER

LAM, N

ART UNIT

PAPER NUMBER

3728

DATE MAILED:

06/08/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action	Application No. 09/308,408	Applicant(s) Fellinger
	Examiner Shian Lam	Group Art Unit 3728

THE PERIOD FOR RESPONSE: [check only a) or b])

a) expires 3 months from the mailing date of the final rejection.

b) expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

Appellant's Brief is due two months from the date of the Notice of Appeal filed on _____ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on May 16, 2000 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

The proposed amendment(s):

will be entered upon filing of a Notice of Appeal and an Appeal Brief.

will not be entered because:

- they raise new issues that would require further consideration and/or search. (See note below).
- they raise the issue of new matter. (See note below).
- they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: _____

Applicant's response has overcome the following rejection(s):

Newly proposed or amended claims _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Please see attachment.

The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: _____

Claims objected to: _____

Claims rejected: 16 and 17

The proposed drawing correction filed on _____ has has not been approved by the Examiner.

Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). _____.

Other

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Response to Arguments

1. Applicant's arguments filed on 5/16/00 have been fully considered but they are not persuasive. Applicant argues that the package of Zackheim is not flexible as stated in claim 16. However, the term "relatively heavy backing" is a relative term and does not imply the package is not flexible. In fact, Zackheim stated in column 3, lines 32-35 that "...a backing sheet 31 which is relatively heavy compared with the cover for the package and normally considerably heavier than the product sheet from which the pads are cut." In other words, the backing sheet only has to be a little heavier than the product and cover sheets. Even if the material used is of a paperboard type, the thickness of the paperboard is so thin (.015-.020 inches) that the paperboard is relatively flexible. Other arguments have been considered but are found unpersuasive.
2. The 112 rejection will be withdrawn when applicant files a Notice of Appeal and an Appeal Brief.

Conclusion

3. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without

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contacting the examiners, M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ebony Smith at (703)305-3570.

For applicant's convenience, the Group Technological Center FAX number is (703) 305-3579 or (703)305-3580. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Lam of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Shian Lam whose telephone number is (703) 308-2039.

STL

June 7, 2000



Bryon P. Gehman
Primary Examiner